IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 12TH JANUARY 2007 / 22ND PAUSHA 1928

WP(C).No. 34451 of 2006(B)

PETITIONER:

M.D.JACOB, MOLARICKAL HOUSE,
MADAIKONAM, THRISSUR DIST.

BY ADV. SRI.V.V.NANDAGOPAL NAMBIAR

RESPONDENTS:

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1. VELOORIKARA GRAMA PANCHAYAT,
KOTTANELLUR P.O., THRISSUR DIST.,
REPRESENTED BY ITS SECRETARY.

2. THE GEOLOGIST, DIST. OFFICE,
MINING & GEOLOGY DEPARTMENT, AYYANTHOLE,
THRISSUR.

R1 BY ADV. SRI.RENJIT THAMPAN
R2 BY G.P. SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C.NO. 34451 OF 2006

Dated this the 12th day of January, 2007

JUDGMENT

Heard counsel for the petitioner, standing counsel for the Panchayat and Government Pleader. Even though petitioner is granted clearance by the Geology Department, Panchayat has declined licence for the reason that if mining is permitted in a small portion of paddy field, which is part of 65 acres of padasekharam, the same will affect cultivational rights of other farmers and will also cause ecological imbalance. Counsel for the petitioner submitted that grounds raised by the Panchayat have been considered by the Geologist and he has granted approval with direction to refill the mined pit with red soil fit for paddy cultivation. Since there is virtual prohibition against mining of sand from river banks, there is nothing wrong in Geologist permitting exploitation of sand reserves in land, whether it be paddy field or otherwise. However, keeping in view the provisions of the Land Utilisation Order and the Panchayat Raj Act, paddy field will have to be retained for it's utility. In the circumstances, I declare that

petitioner is entitled to mine on condition that he will restore the land by filling the mined pit with quality soil fit for paddy cultivation. I feel since the dispute is there between the petitioner and the Panchayat and since revenue authorities are vested with powers under Land Utilisation Order and under the Land Conservancy Act to protect paddy fields, W.P. is disposed of directing the Revenue Divisional Officer, Thrissur, to monitor the mining being done by the petitioner and restoration of paddy field making it suitable for cultivation after mining is over. Petitioner should be granted three months' time to remove sand reserve from his property and another one month's time to restore it to its position. If any default is committed, RDO will get the land filled up at the cost of the petitioner, and if the petitioner does not pay the cost, recovery can be made from the petitioner, including sale of the land. Geologist will renew licence subject to the above conditions. If petitioner commits any default, Panchayat can take up the matter with RDO for enforcing the conditions imposed above.

(C.N.RAMACHANDRAN NAIR)
Judge

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